



## The Issues of International Legal Regulation of Trade in Agricultural Products under GATT and Agreement on Agriculture

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**Abstract:** There has been significant growth in international trade. This growth has been driven in part by the even faster rise in international trade and this growth in trade is in turn the result of both technological developments and concerted efforts to reduce trade barriers. This article reviews some issues of importance of GATT mechanism, regulation of Trading agricultural products within GATT agreement and interprets some reports of World Trade Organization on these products. Although the regulation of agricultural products is not expressly mentioned in the agreement, it serves states to use some general rules and principles to apply to this sphere. Therefore, it is crucial to determine to what extent the agreement allows agricultural products and their trade to be regulated.

**Keywords:** Agricultural products, Trade regulation, WTO principles, GATT agreement, Economic provisions, Tariffs of trade.

**Introduction.** As mentioned by World Trade Organization: “The original GATT did apply to agricultural trade, but it contained loopholes. For example, it allowed countries to use some non-tariff measures such as import quotas, and to subsidize.”<sup>1</sup> Agricultural commerce became extremely skewed, particularly due to the use of export subsidies that would not have been permitted for industrial items. The Uruguay Round resulted in the first international agreement on the industry. It was an important first step toward greater order, fair competition, and a less skewed industry. It was adopted over a six-year period beginning in 1995 (and is currently being implemented by developing nations under their 10-year term). The accord reached during the Uruguay Round includes a promise to pursue reform through future discussions. As mandated by the Agriculture Agreement, these were introduced in 2000.

**Materials and methods.** Some issues of regulation of agriculture under GATT or other related agreements of World Trade organization is discussed by analyzing existing legal framework and materials. Especially, articles and works by other authors which is cited bibliography part contributed the discussions to be more effective.

Seemingly resistant to comprehensive regulation, it lay largely outside the reach of the multilateral trading rules in the General Agreement on Tariffs and Trade (GATT)<sup>2</sup>. According to historical analyses of the pre-WTO period, there are two reasons for this exclusion: the agricultural sectors of the two dominant economies, the United States and the European Community (as it then was) were excluded from the rigours of the GATT rules<sup>3</sup>.

<sup>1</sup> [https://www.wto.org/english/thewto\\_e/whatis\\_e/tif\\_e/agrm3\\_e.htm](https://www.wto.org/english/thewto_e/whatis_e/tif_e/agrm3_e.htm);

<sup>2</sup> Smith, Fiona (2011). *Regulating agriculture in the WTO. International Journal of Law in Context*, 7(2), 233–247. doi:10.1017/s1744552311000036;

<sup>3</sup> Warley (1976) and Jackson (1969, chapter 27);

**Results.** The issues of Agriculture are not directly regulated by General Agreement on Tariffs and Trade, but it does not necessarily mean that it does not regulate these relations, firstly, there are basic principles and framework which regulates not only, agricultural products, but also can refer other products in member countries.

Table 1. The Negotiating Rounds of GATT and the World Trade Organization

Year	Place or Name of Round	Main Subjects	Number of Countries Involved
1947	Geneva	Tariff reduction	23
1949	Annecy	Tariff reduction	13
1951	Torquay	Tariff reduction	38
1956	Geneva	Tariff reduction	26
1960-61	Dillon round	Tariff reduction	26
1964-67	Kennedy round	Tariffs, anti-dumping measures	62
1973-79	Tokyo round	Tariffs, non-tariff barriers	102
1986-94	Uruguay round	Tariffs, non-tariff barriers, services, intellectual property, dispute settlement, textiles, agriculture, creation of WTO	123
2001-	Doha round	Agriculture, services, intellectual property, competition, investment, environment, dispute settlement	147

**Picture 1**

General Agreement on Tariffs and Trade is one of the basic and preexisted documents of World Trade Organization. The General Agreement on Tariffs and Trade (GATT), signed on October 30, 1947, by 23 countries, was a legal agreement minimizing barriers to international trade by eliminating or reducing quotas, tariffs, and subsidies while preserving significant regulations<sup>4</sup>. In general terms, the goals and objectives of a treaty have always been considered of special relevance given that they express the common wishes and aspirations of those who reach a formal agreement at an international level (Reuter, 1970). According to general rules of interpretation of treaties under Vienna Convention on Law of Treaties, the treaty should be interpreted according to its object and purpose<sup>5</sup>. The purpose and objectives of the General Agreement on Tariffs and Trade can be clear from its preamble where it states: "... their relations in the commercial and economic matters should be directed towards raising standards of living, ensuring full employment and a large and steadily growing volume of real income and effective demand, the full utilization of global resources and increased production and trade of products and to the progressive development of the economies of all contracting parties."

Although the original GATT applied to agricultural trade, it had flaws and this allowed countries to utilize non-tariff measures like import quotas and subsidized goods, for example. Agricultural commerce became significantly distorted, particularly as a result of the use of export subsidies that would not have been permitted for industrial items. The Uruguay Round resulted in the world's first global accord on the subject, which was an important first step toward greater order, fair competition, and a less distorted industry. It was implemented over a six-year period beginning in 1995 (and continues to be implemented by developing countries under their 10-year term). A commitment to continue reform through future negotiations was contained in the Uruguay Round accord, as required by the Agriculture Agreement, these were launched in 2000<sup>6</sup>.

However, in addition to GATT member states also adopted Agreement on Agriculture, which as stated in its 2<sup>nd</sup> Article, "Agreement applies to the products listed in Annex 1 to this Agreement, hereinafter

<sup>4</sup> Library of Congress. "General Agreement on Tariffs and Trade," Pages 639–640. Accessed Oct. 1, 2020.

<sup>5</sup> Article 31, Vienna Convention on the Law of Treaties 1969 Done at Vienna on 23 May 1969. Entered into force on 27 January 1980. United Nations, Treaty Series, vol. 1155, p. 331 Copyright © United Nations 2005;

<sup>6</sup> Understanding the WTO, Fifth Edition Written and published by the World Trade Organization Information and External Relations Division © WTO 2015;

referred to as agricultural products”<sup>7</sup>. This Agreement, which went into effect in 1995, to address government policies that distort markets and impede trade. Subsidies and trade barriers were reduced as a result, making markets more fair and competitive. It also allowed members to continue discussing further reforms while taking into account issues like food security and the environment. These continued discussions resulted in a historic decision in 2015 to eliminate agricultural export subsidies and establish new standards for various forms of farm export assistance.

**Discussions.** There are different cases that were reviewed by Dispute Settlement Body on some issues of Agricultural products, for example, in *DS3: Korea — Measures Concerning the Testing and Inspection of Agricultural Products*, the DSB concluded that:

[... The provisions of these agreements with which these measures appear to be inconsistent include, but are not limited to, the following:

- (i) *General Agreement on Tariffs and Trade 1994 Article III or Article XI;*
- (ii) *Agreement on the Application of Sanitary and Phytosanitary Measures, Articles 2 and 5;*
- (iii) *Agreement on Technical Barriers to Trade, Articles 5 and 6; and*
- (iv) *Agreement on Agriculture, Article 4]*<sup>8</sup>

Article 4 of Agreement on Agriculture is about market access and one of the most debated provisions of this agreement and it states” Members shall not maintain, resort to, or revert to any measures of the kind which have been required to be converted into ordinary customs duties”<sup>9</sup>. Additionally, in the case *DS35: Hungary*

— *Export Subsidies in respect of Agricultural Products*, it was witnessed that Hungary provided subsidies in 1995 with respect to agricultural products not specified in Section II of Part IV of its Schedule, and in excess of the budgetary outlay and quantity commitment levels specified in Hungary's Schedule. Therefore, Panel found that: “Hungary's export subsidies on agricultural products are inconsistent with Hungary's obligations under that Agreement and nullify or impair benefits accruing directly or indirectly to Australia under the Agreement”. In this case, also, panel referred articles of GATT in regulation of subsidy-related provisions and as aforementioned, this agreement governs agricultural regulation indifferent ways. Similarly, referencing to GATT, can also be found in the case of *DS207: Chile — Price Band System and Safeguard Measures Relating to Certain Agricultural Products*<sup>10</sup>, where articles AA Art. 4.2 (market access – conversion of certain measures into ordinary customs duties), GATT Art. II:1(b) (schedules of concessions) and WTO Agreement Art. XVI:4 (WTO conformity of laws, regulations and administrative procedures) were discussed by the panel.

**Conclusions.** Concluding all of the points mentioned above, GATT has great significance as a general tool of providing market access, non-discriminatory treatment and promotion of economic development by democratizing agricultural trade. Seemingly resistant to comprehensive regulation, it lay largely outside the reach of the multilateral trading rules in the General Agreement on Tariffs and

<sup>7</sup> [https://www.wto.org/english/docs\\_e/legal\\_e/14-ag\\_01\\_e.htm](https://www.wto.org/english/docs_e/legal_e/14-ag_01_e.htm);

<sup>8</sup> KOREA - MEASURES CONCERNING THE TESTING AND INSPECTION OF AGRICULTURAL PRODUCTS, Request for Consultations by the United States pursuant to Article XXII of the GATT 1994, Article 11 of the Agreement on the Application of Sanitary and Phytosanitary Measures, Article 14 of the Agreement on Technical Barriers to Trade and Article 19 of the Agreement on Agriculture, WT/DS3/1 6 April 1995, Available at: <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=Q:/WT/DS/3-1.pdf&Open=True>;

<sup>9</sup> [https://www.wto.org/english/docs\\_e/legal\\_e/14-ag\\_01\\_e.htm#fntext-1](https://www.wto.org/english/docs_e/legal_e/14-ag_01_e.htm#fntext-1);

<sup>10</sup> DS207: Chile — Price Band System and Safeguard Measures Relating to Certain Agricultural Products, Available at: [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/1pagesum\\_e/ds207sum\\_e.pdf](https://www.wto.org/english/tratop_e/dispu_e/cases_e/1pagesum_e/ds207sum_e.pdf);

Trade.<sup>11</sup> As a result, rather than final settlement, the proper strategy is one of management. Frustration stems from the failure to recognize this significant shift in addressing the challenges. As a result, we must constantly caution against approaching a polycentric problem with the lawyerly expectation of finding a definitive answer. If we pursue this path, there are two interconnected dangers: we become disheartened by the task's complexity when viewed in its proper light and, as a result, abandon the task in favor of superficially acceptable solutions that, while intended as final resolutions, can only ever be temporary and partial redistributions of the tensions within the web of ongoing disagreement.<sup>12</sup> Considering all aforementioned points, the agreement permits states to promote their rural economies, although preferably through trade-friendly policies and also provides for some flexibility in how commitments are executed.

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